

Notice of Allowability

Application No.

10/008,773

Examiner

George Manuel

Applicant(s)

VAN VENROOIJ ET AL.

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment, filed 7/26/07.
2. ☒ The allowed claim(s) is/are 89 and 91-103.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 3/14/06, 6/21/05
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Stephen W. Bauer on 7/27/06.

The application has been amended as follows:

In claim 93, line 2, replace, "plurality of" with –at least two--.

In claim 94, line 2, replace, "plurality of" with –at least two--.

In claim 97, line 1, replace, "window" with—at least two windows each--.

In claim 98, line 1, replace, "window" with—at least two windows each--.

In claim 99, line 1, replace, "window" with—at least two windows each--.

In claim 101, line 1, replace, "101" with –100--.

In claim 101, line 2, replace, "window" with –at least two windows--.

In claim 102, line 1, replace, "101" with –100--.

In claim 102, line 2, replace, "window" with –at least two windows--.

Allowable Subject Matter

Claims 89-103 are allowed.

The following is an examiner's statement of reasons for allowance:

An implantable brain stimulation lead comprising at least two windows at different axial and circumferential positions on the lead body in combination with an insulating sleeve-like member as claimed is not taught nor suggested by the prior art of record.


Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Obino '761 discloses electrodes 42, 42a and 44, 44a shown at different axial and circumferential positions about a lead body. The electrodes are semi-cylindrical electrodes partially encircling and disposed on opposite sides of the peripheral surface 34 of the elongated body 32. This structure contrast with applicant's claimed ring-like electrodes each having an arc or circumference extending substantially around the lead body and having a portion of their circumference covered by the insulating member. It does not appear obvious to combine the different axial and circumferential position teaching of Obino with the insulating sleeve structure of Gielen (U.S. Pat. 6,253,109), of record, because Gielen teaches away by having the sleeve 50 slide along and over lead body 43 to allow window portion 52 to selectively portion electrode rings 48. The electrode position structure disclosed in Obino is intended to be fixed and non-adjustable to provide lead integrity further teaching away from the combination of the Gielen reference with the Obino reference.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Manuel whose telephone number is (571) 272-4952.


George Manuel
Primary Examiner
Art Unit: 3762